IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 555 OF 2007

KHAIRUNISSA ABDUL KADAR CHATAIWALA .. PETITIONER

Versus

THE STATE OF MAHARASHTRA & ANR. .. RESPONDENTS

Mr. Milan Desai with T.R. Patel for petitioner

Ms. P.H. Kantharia, APP

Mr. D.S. Sakhalkar i/b A.S. Rajadhyaksha for R-2

CORAM:-SMT. RANJANA DESAI &

D. B. BHOSALE, JJ.

DATED:-27/4/2007

. The petitioner has prayed that FIR registered as C.R. No. 100 of 2003 with Bandra Police Station at the instance of respondent 2 under Section 379 of the Indian Penal Code and Section 39 of the Indian Electricity Act may be quashed.

2. It appears that the said FIR was filed by the 2nd respondent against the petitioner on 20/3/03. Admittedly in Suit No. 1715 of 2003, filed in the City Civil Court at Bombay, consent terms have been filed by the petitioner and M/s. Reliance Energy, who has admittedly taken over the 2nd respondent. The said consent terms are dated 13/2/07. Term 3

of the said consent terms reads as under:

. "(3) The defendants shall not pursue the proceedings initiated by them against the plaintiff for theft of electricity before the Ld. Metropolitan Magistrate's 9th Court at Mumbai, bearing C.R. No. 100 of 2003 of Bandra Police Station and the complaint to be withdrawn / disposed off."

3. It is evident, therefore, that the dispute involved in C.R. No. 100 of 2003 of Bandra Police Station, which was registered pursuant to the complaint filed by the 2nd respondent has been settled. We are informed that the dispute is settled at an amount of Rs.72,620/- and that money has already been paid to the 2nd respondent. Pursuant to Term 3 of the Consent Terms the 2nd respondent has to ensure that the said complaint is withdrawn. Since the amount involved in the said complaint is more than Rs.2,000/-, the said offence could not have been compounded by the parties. It is in these circumstances that the present petition is filed praying that the complaint be quashed.

4. An affidavit has been filed by Mr. Surendra Ravindra Khot, Manager (Legal) of M/s. Reliance Energy dated 18/4/07. In that affidavit Mr. Khot

has confirmed the fact that the petitioner and the 2nd respondent have arrived at a compromise.

5. In view of this and in the light of the judgment of the Supreme Court in **B. S. Joshi & Ors. v. State of Haryana & anr., 2003 All MR (Cri.) 1162 (S.C.)**, we see no difficulty in quashing C.R. No. 100 of 2003 registered with Bandra Police Station. Hence C.R. No. 100 of 2003 registered with Bandra Police Station, at the instance of respondent 2 is quashed.

6. Petition is disposed of.

JUDGE

JUDGE